



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 23 2019

Colonel Andrew Kelly, District Engineer
Department of the Army
Jacksonville District Corps of Engineers
ATTN: Megan Clouser
Miami Permits Section
900 SW 107th Avenue, Suite 203
Miami, Florida 33176

Subject: SAJ-2018-01778 (SP-MLC), Miami-Dade Expressway Authority

Dear Colonel Kelly:

This letter is in response to permit application number SAJ-2018-01778 (SP-MLC) submitted by the Miami-Dade Expressway Authority and follows the procedures outlined in the 1992 Memorandum of Agreement between the U.S. Environmental Protection Agency and the Department of Army, Part IV, Elevation of Individual Permits (MOA), paragraph 3(a). The proposed project would begin between the current terminus of State Road (SR)-836 and NW 137th Avenue, and extend south for approximately 14 miles, terminating at SW 136th Street near SW 157th Avenue in unincorporated Miami-Dade County, Florida. Based on information in the public notice, the EPA understands that the applicant proposes activities that would directly fill 350 acres and have secondary impacts on 100 acres of freshwater wetlands located in the Bird Drive and North Trail Wetland Basins. The EPA has completed its review of the available information contained in the public notice, in consideration of the Clean Water Act Section 404(b)(1) Guidelines (Guidelines) set forth at 40 CFR Part 230, which prohibit avoidable or significant adverse impacts to the aquatic environment.

The Bird Drive and North Trail Basins are adjacent to the Everglades National Park and have been set aside as a water quality, water seepage, and habitat buffer for the Park.¹ Furthermore, the Bird Drive Basin wetlands are important as a recharge area for the sole drinking water source for the communities of Miami-Dade County and the Miccosukee Tribe of Indians of Florida. Freshwater wetlands are essential to the region because they provide important water quality and wildlife benefits and serve as filtration systems that protect bodies of water. Because of the various functions these wetlands provide and their location, the Bird Drive Basin has been proposed for the Bird Drive Recharge Area Project, part of the federal and state co-sponsored Comprehensive Everglades Restoration Plan (CERP), authorized by Congress in the Water Resources Development Act of 2000. Accordingly, the federal and state governments have acquired much of the basin wetlands for Everglades restoration. For these

¹ In 1934, Congress passed the Everglades National Park Authorization Act which required "preservation intact of the unique flora and fauna and the essential primitive natural conditions now prevailing in this area." 16 U.S.C. § 410c (1934). Everglades National Park is a World Heritage Site, International Biosphere Reserve, a Wetland of International Importance, and a specially protected area under the Cartagena Treaty.

reasons, the EPA has determined that these wetlands are an aquatic resource of national importance (ARNI).

The EPA Region 4 has reviewed the information provided in the public notice for this project and determined that necessary information was lacking for a consideration of alternatives that avoided or minimized impacts, as well as information that would be necessary to fully inform a determination of compliance with 40 CFR Section 230.10 of the Guidelines. Based on this review, the EPA finds this project as proposed may have substantial and unacceptable adverse secondary impacts to the Greater Everglades wetland ecosystem and direct impacts to 350 acres of freshwater wetlands located in the Bird Drive Basin and within Congressionally authorized CERP project boundaries that are an ARNI. Following are our specific comments.

40 CFR Section 230.10(a) of the Guidelines creates a presumption against the discharge of dredged or fill material if there is a practicable alternative which would have less adverse impacts on the aquatic ecosystem. Where the discharge is proposed for wetlands or another special aquatic site and is non-water dependent, practicable alternatives are presumed to be available, unless clearly demonstrated otherwise. Based on the available information, it is unclear whether the applicant conducted a complete analysis of practicable alternatives. The EPA requests that the applicant provide additional information that demonstrates the consideration of alternatives which would not directly impact large tracts of freshwater wetlands including potential secondary impacts to the CERP and Greater Everglades. This information could include additional measures with potential to avoid and minimize the proposed impacts such as siting within the urban boundary, an elevated roadway, reversible lanes, mass transit, or commuter bus options. The EPA is willing to provide any needed assistance on this matter.

40 CFR Section 230.10(b) prohibits discharges that will cause or contribute to a violation of water quality standards, violate toxic effluent standards, or jeopardize a threatened or endangered species. The available information did not demonstrate whether an analysis of potential water quality impacts was conducted. In addition to describing the effect on water quality from the direct impact of the project, the EPA requests that the applicant provide a detailed analysis regarding the potential secondary effects of this proposed project on water quality, including but not limited to an analysis of the Greater Everglades and the protection of downstream waters (Florida Bay).

40 CFR Section 230.10(c) prohibits discharges that will cause or contribute to significant degradation of waters of the United States. Based on the limited available information on the proposed project, the applicant did not demonstrate that the proposed project will not result in significant degradation, including individual or cumulative effects to human health and welfare; fish and wildlife; ecosystem diversity, productivity and stability; and recreational, aesthetic and economic values. The EPA requests that the applicant provide a detailed analysis of the potential individual and cumulative effects set forth in 40 CFR Section 230.10(c), including but not limited to drinking water sources for the Miami-Dade community and the Miccosukee Tribe.

40 CFR Section 230.10(d) prohibits discharges unless all appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem. Minimization includes all reasonable actions to reduce the adverse impacts of a proposed discharge at a particular site. Based on the available information, it appears that the proposed project does not include any actions or measures to minimize the adverse effects of the discharges of fill material. In order to ensure compliance

with the Guidelines, the EPA requests that the applicant provide additional information that demonstrates how appropriate minimization measures were considered and utilized for the project.

40 CFR Section 230.11 requires among other things the consideration of secondary and cumulative impacts from the proposed project. Based on the limited available information, it is unclear whether the applicant considered such impacts. Pursuant to this requirement, the EPA requests that the applicant provide additional information to clarify whether the overall project plan includes consideration of effects from potential induced development in the areas that surround the proposed project.

We appreciate the opportunity to work on this matter and we look forward to continuing to work with the applicant and the Jacksonville District of the U.S. Army Corps of Engineers. The EPA is committed to working to identify ways in which we can ensure together that compliance with the regulatory requirements are met. The EPA looks forward to receiving the information requested above to facilitate evaluation of this project. If you have any questions, please feel free to contact me at gettle.jeanneanne@epa.gov or (404) 562-8979, or have someone from your staff contact Ms. Cecelia Ann Harper of my staff at harper.cecelia@epa.gov or (470) 249-3125.

Sincerely,



Jeanneanne M. Gettle, Director
Water Division

SFWMD, West Palm Beach, FL (Drew Bartlett)
FDEP, Tallahassee, FL (Tim Rach)
FWS, Vero Beach, FL (Donald Progulske)
NPS, Homestead, FL (Robert Johnson)

